IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3527 OF 2007
IN
SUIT NO.2519 OF 1990

Pradeep D. Nandgaonkar Plaintiff
versus
Suresh Gole and others Defendants

Mr.R.R.Arolkar for plaintiff.

Mr.Suresh Gole for defendant no.1.

Ms.Sandhya Amin for defendant no.6.

CORAM : A.M.KHANWILKAR, J.
DATE : 17th September 2007

PC :-

1. Not on board. Upon mentioning taken on board. Heard along with Suit No.2519 of 1990 by consent.

2. Counsel for the plaintiff has opposed this Notice of Motion on the argument that no specific case has been made out in the affidavit in support of the Notice of Motion to explain the delay of 17 years in filing the written statement. Nevertheless, he submits that as the recording of evidence in the suit is yet to commence, if the Court is inclined to allow the motion in the interest of justice, may impose

sufficient costs.

3. After hearing the submissions of the rival counsel, in the interest of justice, I am inclined to allow this Notice of Motion in terms of prayer clause (a) on condition that defendant no.6 shall pay costs to the plaintiff quantified at Rs.10,000/- (Rs.Ten thousand only) within one week from today as condition precedent. If costs is not paid within the time, the office to proceed on the assumption that this motion stand dismissed for non prosecution and ignore the indulgence shown to the defendant no.6 under this order. In that event, the matter will proceed ex-parte against defendant no.6. However, if costs is paid in time, to consider whether additional issues are required to be framed in view of written statement filed by defendant no.6, the matter be placed on 3rd October 2007 under caption "for framing issues".

(A.M.KHANWILKAR, J.)